IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

Bail Appl..No. 6368 of 2007()

CRIME NO. 576/07 OF KASARAGOD POLICE STATION

PETITIONERS : ACCUSED

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1. KRISHNAN T,
   S/O. KUMARAN, AGED 27 YEARS, PERUMBALA VILLAGE
   KASARGOD DISTRICT.

2. MANIKANDAN @ MANI
   S/O. GOPALAN, PERUMBALA VILLAGE
   KASARGOD DISTRICT.

3. REMESHAN.K.S/O.KURATHI KUNHIRAMAN
   PERUMBALA VILLAGE, KASARGOD DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.K.P.HARISH

RESPONDENTS: COMPLAINANT/STATE

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1. STATE REPRESENTED BY PUBLIC PROSECUTOR
   HIGH COURT OF KERALA,ERNAKULAM.

2. THE STATION HOUSE OFFICER,
   KASARAGOD POLILCE STATION
   (CRIME NO.576 OF 2007 OF KASARAGOD POLICE STATION
   KASARAGOD DISTRICT.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6368 of 2007

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Dated this the 22nd day of October, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 7, 16 and 18 in a crime registered for offences punishable, inter alia, under Section 452 r/w. 149 I.P.C. That (S.452) is the only non-bailable offence alleged against the petitioners. Political animosity is the alleged motive. The defacto complainant's shop room was attacked and extensive damage was caused to the building by the miscreants after entering the building armed with weapons. The dispute between the C.P.I. and C.P.M. is the alleged motive. The petitioners belong to C.P.M., it is submitted.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. They have not entered the shop room. In these circumstances the allegation that they have committed the offence punishable under Section 452 I.P.C. may not be accepted. The petitioners may be granted anticipatory bail, it is prayed.

3. The application is opposed. The learned Prosecutor submits that the available indications clearly point to the complicity of the petitioners. The petitioners are named in the F.I.R. The allegations

do show that after making preparations, the miscreants had entered the shop room. The scene mahazar eloquently narrates and bears teltale marks of violence in the building also. In these circumstances anticipatory bail may not be granted to the petitioners, submits the learned Prosecutor.

4. Having considered all the relevant inputs, I do not find any features in this case, which would justify the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. in favour of the petitioners. This, I am satisfied, is a fit case where the petitioners must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. Needless to say, if the petitioners appear before the Investigating Officer or the learned Magistrate having jurisdiction and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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